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## MARRIAGE AND DIVORCE IN NORTH DAKOTA

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President Roosevelt considered the question of marriage and divorce of so great importance that January 13, 1905, he sent a special message to Congress, and in it, referring to legislation, said: "Intelligent and prudent action in that direction will be greatly promoted by securing reliable and trustworthy statistics upon marriage and divorce. I deem the matter of sufficient general importance to recommend that the director of the Census be authorized to collect and publish statistics pertaining to that subject covering the period from 1886 to the present time."

Indeed, so important a question is the one of which we speak that scarcely a week passes but that some more or less interesting discussion appears in paper or magazine. It seems to be of almost inexhaustible interest, and just now it is undergoing one of its periodic discussions both in America and across the sea. This being admitted, it might seem as if the topic had grown threadbare, and that nothing new or original is left unsaid. But it is the purpose of this paper to investigate a new and unexplored field, and it is hoped that the facts produced will enable the writer to show the exact conditions which have existed and which now exist in North Dakota. These facts should be particularly interesting at this time, since our young state has attracted almost, if not quite, as much attention as a place, on the one hand, where family quarrels could be settled, as, on the other hand, a region of untold wealth and opportunity.

In gathering statistics for this state on this question, an investigation such as the United States government or the state might undertake was out of the question. As Dr. Samuel W. Dike, who is a recognized authority on the subject in this country, said, in a personal letter: "The task of collecting the figures for an entire state for fifteen years would be too much for any one man to do or to pay for doing." Nevertheless, the facts at hand cover thirty-eight out of thirty-nine counties in the state on the

question of marriage licenses; and thirty-four counties on the question of divorce, of which number at least twenty-eight are complete on the points investigated. These reports cover the period of fifteen years which have elapsed since the state was organized.

In order to make a detailed study of vital statistics such as those here presented, it is important to know the population for each year, so as to compare the number of marriages and divorces with the whole number of people. Up to the present time the population in this state has been ascertained only once in ten years, and therefore the population for the intermediate years must be found indirectly. The most simple and obvious method of obtaining the population for any one year is to assume that in each year of the interval the population changed by the same amount—i. e., one-tenth of the change for ten years. This method is not entirely perfect, but it has been used and will be accepted here as being sufficiently accurate for the purposes of this paper. Then let us at the outset reduce the number of marriages to a marriage-rate, examine the tendency in this state, and compare conditions here with similar figures for other countries and other parts of our own country.

As was noted above, the figures received up to date are complete for all but one county, and cover the period since statehood. The report is not complete for 1890, because the law requiring the keeping of records did not go into effect until July 1 of that year, and many counties have incomplete records up to that time. The population of these thirty-eight counties in 1890 was 180,848, and in 1900 it was 314,797—an increase of 74.07 per cent. in ten years. If the increase was regular, the annual increase was 7.407 per cent.; and the population in 1891 by this method would be 194,231. The marriage-rate is a comparison of the number of persons married (not marriages) with the population. In 1891 there were 1,443 marriages or 2,886 persons married, and therefore the marriage-rate for that year was 14.85. From that time to the present the increase is by no means regular, prosperous years and hard times having considerable influence, as will be pointed out later. But, nevertheless, there seems to be an increase in the average rate, for in 1900, with the population 314,797 and

4,884 persons married, the rate was 15.51—an increase of 4.44 per cent. over 1891. By 1903 (using the same basis) the population would be 384,745, and there were 6,890 persons married; therefore the marriage rate was 17.9, which is an increase of 20.54 per cent. over 1891. If an increase of 10 per cent. instead of 7.407 per cent. in the population were allowed during the last three years, the marriage rate would still be 17. For the years 1901-2-3 (1904 falling off as explained latter) we find the average rate to be 17.91.

The above facts point out the truth of the statement of Dr. Carroll D. Wright in his *Practical Sociology* (1901): "In the United States there is a widespread belief that marriages are relatively less frequent than they used to be and less numerous than in other countries. The unyielding statistics show that impression to be unfounded." But Dr. Mayo-Smith (1902) says: "Since 1871-80 there has been a tendency to a decline in most of the countries of Europe, with some recovery since 1890." And Dr. Howard, whose very valuable work, *A History of Matrimonial Institutions*, has just appeared, says: "While the marriage-rate per capita of population is steadily descending, the divorce-rate is on the average rising." He does not refer to the recovery since 1890. The entire statement may be drawn from good evidence, but cannot be positively made as of universal application, because here in North Dakota at least we find the very opposite to be true. And so the best authorities are divided on the general rule. I think we may safely say that for North Dakota the marriage-rate is gradually increasing.

Comparing these figures with similar reports from other countries and other parts of our own country, we have the following:

|                           |         |       |      |       |        |       |
|---------------------------|---------|-------|------|-------|--------|-------|
| North Dakota.....         | 1891    | 14.85 | 1900 | 15.51 | 1901-3 | 17.91 |
| England and Wales.....    | 1871-90 | 14.70 | 1893 | 14.70 |        |       |
| Holland.....              | " "     | 15.10 | "    | 14.60 |        |       |
| German Empire.....        | " "     | 16.40 | "    | 15.80 |        |       |
| Vermont.....              | 1867    | 17.80 | 1886 | 15.60 |        |       |
| Massachusetts.....        | "       | 21.60 | "    | 18.00 |        |       |
| District of Columbia..... | "       | 33.30 | "    | 20.70 |        |       |
| Ohio.....                 | "       | 23.80 | "    | 16.40 |        |       |
| Illinois.....             | "       | 23.60 | "    | 17.70 |        |       |

Variations such as are seen in the above sets of figures must be accounted for in each instance by natural causes, such as climate, seasons, geographical position, race, and social surroundings.

The more intricate the industrial and commercial life becomes, the more difficult it is to compare any phenomenon, such as marriage, with any one factor (such as the price of corn, as was found in Germany during certain periods). But here in North Dakota, where agricultural and allied industries are practically the only sources of wealth, the relations are more easily traced. The reports for 1890 are incomplete, as noted above. In 1891 there was considerable of a rise, and the same was true of 1892. And I have it from the very best of authority that North Dakota was exceptionally prosperous during those two years. The year 1893 saw hard times throughout the country, and that it affected this state is clearly shown by the table given below. The decrease continued the next year, and it was not until 1897 that the report of 1892 was exceeded or even reached, although the recovery was gradual (as was the recovery from hard times). The years 1897-98 were not a period of hard times, and so the break in the upward movement cannot be explained in that way. But it must be remembered that the Spanish-American War broke out at that time, and North Dakota sent her share of the troops (one regiment) to the Philippine Islands. Many of these were young men, as near the average marriageable age as could be found, and a slight falling-off should be expected. The increase is then more or less gradual, varying with economic conditions. In 1902-3 it is very rapid, but 1904, although fairly prosperous and the population of the state rapidly increasing, there was a noticeable falling-off. There has been a considerable emigration of our younger people to Canada on account of the free lands offered, and the increase in our own population is the result of the immigration of large families from other states, or of young men and women who return to their former homes to get married. Then, too, 1904 was leap-year; some men would fail to declare their intentions; only a very few women would take advantage of this legendary opportunity; and probably many would even refuse to

have the ceremony performed, lest it might appear that they had taken advantage of the opportunity referred to.

From a consideration of these facts and a study of the table below we may conclude that marriage is a fairly sensitive barometer of the economic conditions of a state or country. But our statistics are not complete enough to be nearly a perfect gauge. We are told that widowers and bachelors marry under different conditions—widowers being less affected by hard times; but from the records in this state it cannot be told whether the groom has been married before or not, nor any fact about him but his age. Not even nationality or religion is given, although these facts are very important in making any complete study of this phase of sociology.

The following table shows the number of marriages for each year from 1890 to 1904:

|           |       |           |       |
|-----------|-------|-----------|-------|
| 1890..... | 1,070 | 1898..... | 1,890 |
| 1891..... | 1,440 | 1899..... | 2,260 |
| 1892..... | 1,790 | 1900..... | 2,440 |
| 1893..... | 1,690 | 1901..... | 2,460 |
| 1894..... | 1,650 | 1902..... | 3,020 |
| 1895..... | 1,680 | 1903..... | 3,460 |
| 1896..... | 1,770 | 1904..... | 3,250 |
| 1897..... | 1,920 |           |       |

In making a study of births it is found that the tendency is to concentrate about certain months. The same is true of marriages. But that fact cannot be cited to prove the contention that the old mating season is still traceable in our present system, as some claim. Economic and social conditions seem to control, as will be pointed out. From the accompanying table it will be seen that of the 31,779 cases investigated, one-sixth were celebrated in one month—that of November. If the average number of marriages per month were represented by 100 per cent., in November we find 199.2 per cent., or nearly twice the average; and in May only 64.8 per cent., or less than one-third of November—a shorter month. The following table shows the number of marriages by months covering a period of fifteen years for thirty-eight counties:

|               |       |                 |       |
|---------------|-------|-----------------|-------|
| January ..... | 2,270 | July.....       | 2,290 |
| February..... | 1,750 | August .....    | 1,820 |
| March.....    | 2,120 | September. .... | 1,810 |
| April .....   | 2,060 | October .....   | 3,210 |
| May .....     | 1,690 | November.....   | 5,190 |
| June .....    | 2,830 | December.....   | 4,210 |

Using 100 as the average number of marriages per month, the following figures represent conditions in North Dakota from 1890 to 1904:

| Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept. | Oct. | Nov. | Dec. |
|------|------|------|------|-----|------|------|------|-------|------|------|------|
| 87   | 68   | 81   | 80   | 65  | 109  | 88   | 70   | 69    | 123  | 199  | 161  |

Using the same basis, the following represents conditions in Germany in the period 1872-85:

| Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept. | Oct. | Nov. | Dec. |
|------|------|------|------|-----|------|------|------|-------|------|------|------|
| 97   | 118  | 58   | 115  | 124 | 91   | 84   | 68   | 92    | 128  | 153  | 76   |

A comparison of these two sets of figures shows February in North Dakota not much more than half that of Germany; March is about 25 per cent. more; April and May only about half; June, more; etc., through the list.

The above being true, it is evident that very different explanations must be found to cover North Dakota conditions. We are told that in Germany "the influence of religious and social causes is very plain." In North Dakota economic conditions must be substituted. Being an agricultural state, its prosperity depends on getting in and harvesting a good crop. During these two seasons, then, all attention is concentrated on this one enterprise. The period for sowing grain is April and May, and the low number of marriages during this period will be seen from the above tables. June is more a month of respite, and if the crops are maturing and prospects good, a few extra marriages will be registered. During July the hay crop is cut, matured, and hauled in for winter months, and there is a corresponding falling-off of marriages. Most of those celebrated are near the first of the month

—preferably the fourth. During August and September most people are engaged in harvesting and threshing; and then, if the crops have been good and the return has been large, comes the period of most marriages. A great many ceremonies are performed during the latter part of October; but November is the month most patronized; December following as a close second, as shown above. The falling-off is then gradual, excepting a slight increase just before seeding time.

Some may claim that what has been said may apply to country districts, but that the cities should be examined separately, their population not being engaged in farming. As a matter of fact, the prosperity of our towns and cities depends so much on the conditions of the surrounding country, which is entirely agricultural, that little difference could be expected. And a slight difference is noticeable especially in the three valley counties—Cass, Traill, and Grand Forks—each of which has a considerable urban population. Thus there are 6 per cent. more June weddings than the average. That the “problems of marriage and the family can be solved only by grasping their relation to the economic conditions” is illustrated to some extent by the above facts.

The question as to what is the best age for men and women to marry is by no means settled, although there is no lack of expert testimony on the subject. It is the purpose of this paper to present some facts from North Dakota which must be taken to represent the opinion of the people from the district examined. First let us consider the figures for 1890. During that year the law provided that males sixteen years of age or over and females thirteen or over could marry, but making parental consent necessary for males under twenty-one years of age and females under eighteen. Out of 235 cases investigated (that being the total number for one year in Grand Forks County), only two males were under twenty-one (both twenty years) and fourteen females under eighteen (one at fifteen, five at sixteen, and eight at seventeen). Looking at the other extreme, we find fifteen grooms and four brides over forty years of age. Eliminating these extremes in order to get as nearly as possible at the fair average age, we find that of grooms to be 26.8 years and that of brides to be 22.68



years. Thus the grooms are 4.12 years older on an average than the brides.

After a lapse of fifteen years the same number of marriages were examined. Marriage is not now allowed under eighteen and sixteen for males and females, respectively, the ages of parental consent remaining the same. The average age at which men married in 1904 upon the above basis was 28.09 years, and for women it was 23.49. Thus the difference in the ages of the contracting parties is 4.6 years, and we find that men now delay marriage 1.29 years and women 0.81 years.

Comparing these figures with the latest at hand from other places we have:

|                          | Grooms | Brides |
|--------------------------|--------|--------|
| North Dakota, 1890.....  | 26.80  | 22.68  |
| North Dakota, 1904.....  | 28.69  | 23.49  |
| Massachusetts, 1871..... | 26.30  | 23.50  |
| Massachusetts, 1890..... | 27.20  | 24.30  |
| England, 1885.....       | 28.37  | 26.08  |
| Prussia, 1885.....       | 29.56  | 26.52  |
| Norway, 1885.....        | 30.66  | 27.83  |

From these facts there seems no doubt that the average age is advancing. Indeed, the general tendency is to defer marriage. And, from watching concrete cases and from general observation, I believe this fact is especially true among the more highly educated. In an agricultural state, such as this, where land can be had for the asking and there is little difficulty in getting established, it would be no more than natural to find early marriage. Indeed, in the cases studied 25 per cent. of the brides were married before they were twenty years old. In England less than one-half of that percentage is found, and in New York City during 1891-92 there were 18.2 per cent. It has already been pointed out how economic conditions influence the marriage-rate and the time of year of marrying; and the same is no doubt true as to the age of the contracting parties.

The number of marriages, and whether the parties be male or female, is about all that can be ascertained from the records. Whether the groom is a bachelor, a widower, or a divorced person

cannot be found. The same is true as to the bride, unless perchance she sign her name "Mrs.," and then whether she is a widow or divorcee is not known. Out of some 540 cases examined, only eighteen were so signed—i. e., only  $3\frac{1}{3}$  per cent. If normal conditions existed here, there should be from 6 to 10 per cent. of brides who are widows, and probably as many divorcees. An attempt was made to get some data on this point by leaving blank forms to be filled out by asking these additional questions, but the returns have been so incomplete and scattered as not to be of any certain value in arriving at a conclusion. As to whether the contracting parties are of the same religion, race, or nationality, nothing can be learned from the records except from a study of the names, which is far too uncertain. No facts are available to show whether the parties are native- or foreign-born, literate or illiterate. That there is need for much more complete and better statistics all students of sociology are agreed.

#### DIVORCES

Before considering the statistics of divorce we may profitably examine some of the divorce legislation of North Dakota. During territorial days the laws required that the plaintiff should be a resident in good faith for ninety days next preceding the institution of the action for divorce. These laws were still in force when the state was organized in 1889, and remained the law for some time. Some idea of the condition of affairs during the early days will be got from the following quotations taken from *The Early Empire Builders of the Great West*, by Moses K. Armstrong (a pioneer congressman) :

Divorce bills are all the rage at present. One of these bills came up in the council last Monday, and was read a first, second, and third time, and passed in ten minutes. It is believed that the council is composed entirely of disunionists. . . . Some rich letters are read in connection with these divorce bills—in one of which, read today [April 30, 1862], the wife calls her husband "no better than a wooden man."

On January 6, 1863, he says :

To see the divorce bills presented, it would seem as if half the women this side of Hades were tired of their husbands and wished to marry the Dakota legislature. One of these precious creatures sets forth in her petition

that her husband is given to "habitual drunkenness;" another, to "habitual sleeping and snoring;" while a third avers the want of "natural affinity," and the fourth one states that her husband

"Hast learned to love another,  
And her heart is lonely now."

And again, on page 97, he says :

It is amusing to observe the long and anxious faces of married men, listening to the reading of the morning journal of the house, to see if they have not been divorced the previous day.

From such statements as this it will be seen that the place had already established a reputation. None of the first sessions of the state legislature touched on the question of dissolution of marriage. The sessions of 1893, 1895, and 1897 also passed without altering the then existing laws in any way. But during this period our state was a veritable Garden of Eden for whoever desired speedy and easy separation. In no way could North Dakota have got at once more extensive and more undesirable advertising. The glad news spread far and wide that whosoever would might come here, be received in open court, and be sent away rejoicing with a certificate of divorce. No get-rich-quick concern could have been better patronized, or have created more havoc, than this opportunity which we offered to break up families and destroy homes. It was not until 1899, when in some counties the number of divorce actions equaled or actually surpassed the number of marriages, that our legislators answered the demands of all fair-minded people with a provision which resulted in immediate and far-reaching importance and improvement. Up to this time the rapidity, secrecy, and cheapness with which a divorce could be secured by non-residents led to the flooding of the courts of the state in a few counties (four at least) with cases, mostly from eastern states, as the records show.

The session of 1899 began early in January. The first bill introduced in the senate was one which amended section 2755 of the *Revised Codes* by requiring that the plaintiff must have been a bona-fide resident of the state for twelve months (one year) next preceding the commencement of an action before a divorce could be granted; and also that he must be a citizen of the United

States or have declared his intentions of becoming such. By February 3 the bill had passed both branches of the legislature and had been signed by the governor. A later bill provided that the above act should "not apply to any action for divorce in which the complaint shall have been filed in the office of the district court prior to the first day of July, 1899," at which time all acts were to go into effect unless special provision was made. This last act helps to account for the large number of divorces granted in 1899 and even in 1900, the court calendars being filled so full that it took some time to clear them.

At the same session an amendment to the then existing laws made adultery, extreme cruelty, wilful neglect, wilful desertion, habitual drunkenness, convictions for felony, and incurable insanity the grounds for divorce. The latter cause must have existed for two years, and desertion, neglect, and intemperance one year, to be a good cause. The provisions concerning alimony were also amended.

In 1901 it was decreed that only death and a competent court are to be recognized agents to dissolve marriage. Another provision was that no party divorced may marry again within three months after the decree was granted. It was believed that this provision would deter at least a few from rushing into a separation in order to remarry. A study of the facts does not tend to show that much was accomplished, since a person may go to any county where he is not known, and easily obtain a marriage license without disturbing his conscience much, owing to the willingness of the officials not to press any question home which is not suggested. I have found the names of women who were widowed or divorced signed without the "Mrs.," thus easily avoiding the question as to whether they were divorced or not and how long, and at the same time apparently excusing the official from asking this highly repugnant question, as one of them confided to me.

The provision that the applicant must be a citizen of the United States was aimed at Canadians, who could easily cross the borders to escape the very rigid requirements in their own country. It was also expected that a large number of foreigners would be shut out—i. e., those who were rapidly coming to this state to get

free land. Insanity has not been a cause for divorce since 1901, when that provision was repealed.

I have received reports of various kinds from thirty-four out of the thirty-nine counties in the state. Of these only 26 are complete, 2 others being almost complete. The direction in which divorce is tending is best shown by a study of the figures received. First twenty-two representative counties, influenced very little by migration for divorce, have been selected to show what may be called the general tendency. After that the more abnormal districts will be examined.

A study of the accompanying figures will show that marriage and divorce have been tending along the same direction. The same general causes must be assigned for both phenomena. The prosperous times of 1891-92 are there, and also the hard times just following. Then comes the more or less gradual increase. The falling-off for last year is no doubt largely due to the fact that many cases were not brought to trial and are still on the calendar.

NUMBER OF DIVORCES GRANTED IN TWENTY-TWO RURAL COUNTIES.

|           |    |           |    |
|-----------|----|-----------|----|
| 1890..... | 27 | 1898..... | 71 |
| 1891..... | 27 | 1899..... | 67 |
| 1892..... | 50 | 1900..... | 72 |
| 1893..... | 39 | 1901..... | 59 |
| 1894..... | 38 | 1902..... | 68 |
| 1895..... | 43 | 1903..... | 92 |
| 1896..... | 59 | 1904..... | 67 |
| 1897..... | 75 |           |    |

The following table will give a better idea of the divorce movement, since it gives the rate of marriage to divorce in the twenty-two counties referred to. The marriage statistics for 1890 are not complete.

|            | Divorces | Marriages | Ratio     |
|------------|----------|-----------|-----------|
| 1891 ..... | 27       | 640       | 1 : 23.70 |
| 1892 ..... | 50       | 883       | 1 : 17.06 |
| 1893 ..... | 39       | 853       | 1 : 21.87 |
| 1894 ..... | 38       | 846       | 1 : 22.26 |

The above gives the best account of conditions during the divorce era; let us now see what the ratio has been since the new law passed:

|            | Divorces | Marriages | Ratio     |
|------------|----------|-----------|-----------|
| 1901 ..... | 59       | 1,189     | 1 : 20.15 |
| 1902 ..... | 68       | 1,442     | 1 : 21.21 |
| 1903 ..... | 92       | 1,501     | 1 : 16.31 |
| 1904 ..... | 67       | 1,376     | 1 : 20.53 |

From a comparison of the above two sets of figures it appears that in rural districts little affected by outside conditions the divorce movement is quite steady. Some idea of the conditions in other places will be got by a study of the following figures:

|                           | Ratio    |
|---------------------------|----------|
| Vermont, 1902 .....       | 1 : 10.0 |
| Massachusetts, 1902 ..... | 1 : 16.0 |
| Rhode Island, 1902 .....  | 1 : 8.4  |
| Ohio, 1902 .....          | 1 : 8.8  |
| Michigan, 1900 .....      | 1 : 11.0 |
| Indiana, 1902 .....       | 1 : 7.6  |

The above-named states prepare annual detailed reports of wide general interest and are widely quoted. A comparison of the conditions in these states with those in our own would show that the reputation gained by our young state was not deserved. But it was pointed out that only twenty-two rural counties of North Dakota were presented above, and these were little affected by those who migrated for the purpose of securing a divorce. Let us now examine some of the abnormal districts. We find four counties especially which show startling conditions existing; many others being more or less affected.

Cass County, containing Fargo, being the most populous in the state and nearest and most accessible to the outside world, will be taken up first. Conditions such as those which we find for Fargo are enough to give a city a reputation of which the worst should be ashamed. It is not my intention to attack the character of that city, but I believe that, by pointing out the facts and citing

concrete examples of what actually existed in our midst, the same will not be soon repeated.

Dr. Howard thinks that the statistics from some of the western states are "startling." But the worst he is able to find is Indiana for one year—1900—when the ratio was 1 to 5.7, and in the county of Marion, containing Indianapolis, it was 1 to 3.8. Compared with this, Cass County was certainly a "Mecca" for seekers after divorce. During the period since the state was organized to the beginning of the present year there have been 1,108 applications for divorce and 3,622 applications for marriage licenses; in other words, a ratio of 1 to 3.26. Of this number, 83.57 per cent. were granted. But it was not until 1895 that conditions became the worst. It is true that there was considerable migration for the purpose of securing a divorce before that date. Armstrong, whom I quoted above, showed the beginning of the movement; and in 1889-91 James Realf wrote articles for a magazine which told of the movement and which no doubt helped to bring on the notoriety which was fast being gained. By 1895 the ratio in Cass County was found to be 1 to 2.76—a condition worse than the worst which Dr. Howard, Dr. C. D. Wright, Dr. Mayo-Smith, or any other has yet pointed out. But that was only a beginning, for in 1896 the ratio was 1 to 1.91; in 1897 it was 1 to 1.89; in 1898 it had got 1 to 1.71—the worst up to that time. In July of the next year the new law went into effect and a decrease was sure to result. But the courts were rushed so full of actions that 1899 saw the ratio still up to 1 to 2.36; in 1900 it was still 1 to 2.69. By this time the courts were practically cleared and the improvement was rapid. Last year the ratio was 1 to 18.39, and the average for the last three years has been 1 to 14.

According to Professor Willcox, *A Study in Vital Statistics*, "the number of persons divorced (not the number of divorces) to every 100,000 of the population for Japan in 1886 was 608.45." This he finds to be the most extreme case on record, and in 1898 the figures for Cass County would be 1158.98—nearly twice the rate found in Japan. From the official digest of statistics of the Japanese empire, May, 1888, we find the following facts:

|            | Marriages | Divorces | Ratio    |
|------------|-----------|----------|----------|
| 1884 ..... | 287,842   | 109,905  | 1 : 2.62 |
| 1885 ..... | 259,497   | 113,565  | 1 : 2.28 |
| 1886 ..... | 315,311   | 117,964  | 1 : 2.67 |

Thus we find that in Fargo during this period there were almost twice as many divorces on the average than even in Japan—the worst yet pointed out in the civilized world.

But Fargo was not in a class of her own. Other counties led even Fargo in benefiting from this questionable advertising. Morton County, containing Mandan, showed even worse conditions. In 1897 the rate was 1 to 1.70; in 1898 it was 1 to 1.15. Then come the improved conditions. The year 1899 saw it still 1 to 1.21, but the average for the last three years has been 1 to 20.3. Bad as the conditions pointed out were, the climax is not reached until we examine the statistics from our state capital. Away back there in the wilderness, where very few people lived and which was little frequented except by legislators, a condition sufficiently startling to suit the most exacting was to be found. Running backward from 1904, we find the following:

|            | Ratio     |
|------------|-----------|
| 1904 ..... | 1 : 11.00 |
| 1903 ..... | 1 : 9.88  |
| 1902 ..... | 1 : 6.77  |
| 1901 ..... | 1 : 5.87  |
| 1900 ..... | 1 : 2.30  |
| 1899 ..... | 1 : 1.11  |

The exact ratio for 1898 and earlier cannot be positively stated. But that the conditions were “startling” will be pointed out. In 1898 there were ten more divorces granted than in 1899, when the ratio was 1 to 1.11, and the number of marriages would naturally be considerably less (the exact number could not be found out). But if we accept the percentage of increase in the number of marriages for those two years which holds good for other parts of the state, to apply to this county, then the ratio of divorce to marriage was 1 to 0.765; in other words, for every 76 weddings there would be 100 divorces granted. But enough has



been said on this score. The conditions were certainly deplorable, and were rapidly getting worse until the action taken by the legislature in 1899.

The question should here be considered: What effect does legislation have on divorce? Without hesitation I should answer that in any one state legislation may create whatever degree of good or evil is desired. Commissioner Wright believes that "it is quite apparent that the lines of statistics are curved in accordance with laws enacted just previous to the curve." But Professor Willcox criticizes that statement very severely, and Dr. Howard says that, in general, the influence is "slight, temporary, or questionable." Notwithstanding the above criticisms, that Dr. Wright's statement is very largely true is shown in this case by the figures presented above. It is not denied that the "difference in the divorce-rate existing among the states cannot very largely be accounted for by the difference in the number of grounds of petition sanctioned by the respective states." As to that phase of the question there seems to be no doubt but that "the true conclusion is that limiting the causes increases the number of divorces in those which remain, but without materially affecting the total number." But that fact does not interfere with the truth of the other statement.

The principal way in which our laws have attracted divorce colonies has been the short time of residence required and the serving of notice on the defendant to the action by publication. Dr. Wright says concerning migration for divorce: "The truth of the matter seems to be that the residence of a few notorious persons in states having lax divorce laws makes a greater impression on the public mind than is warranted by the facts." And after a study of Dr. Wright's various facts and statements, both Dr. Howard and Professor Willcox agree that "it seems highly probable that the number of such persons must be placed at considerably less than 10 per cent. of the whole number of persons divorced in the United States." And Dr. Samuel W. Dike remarks, in a personal letter, that "migration for divorce must be much smaller than many think." There is no intention to deny these as general statements, but there are very marked excep-

tions which must tend to bring the average up. Certainly in North Dakota there have been more than "a few notorious persons," for in five years in Fargo alone there were 596 divorces and only 1,230 marriages. Now the average divorce rate for the state at large, where migration affects it very little, is about 1 to 20. At that ratio there should have been only 61.5 divorces granted. This is only about 10 per cent. of the number which was granted, so that, in place of only 10 per cent. migrating for divorce, there were only 10 per cent. who were residents and 90 per cent. were immigrants.

One other point must be considered here: What percentage of the applications for divorce are granted? On this point Dr. Howard says (Vol. III, p. 207): "To some extent the evil of lax administration of the divorce laws is exaggerated by public opinion. In the main the courts are careful and conscientious in the trial of suits." According to the report of Commissioner Wright, in seventy counties scattered over twelve states but 67.8 per cent. of the petitions for divorce were granted. From this fact it is inferred that the "judges exercise a reasonable care before issuing a decree." He says also that for the counties investigated "it is certain that about 30 per cent. of the petitions have been denied. The number of cases involved is sufficiently different to lead one to the conclusion that the same state of affairs exists throughout the country, and that our courts, instead of being careless in the matter of granting divorces, weigh well the causes alleged, and do not grant decrees unless the allegations of the libellants are fairly sustained." Thus, 67.8 per cent. is the average number of actions which result in divorce on the basis referred to above. A further study shows that in Michigan in 1900 "about two-thirds of the applications were granted." If these facts are representative—and I think they must be accepted as illustrating the general results of court trials—then our state is again abnormal; for an investigation shows that of 2,637 applications 2,201 were granted. Thus for a long period there were 83.46 per cent. of the actions successful. And there does not seem to be any change for the better in this phase of the question. During 1900, 1901, 1902, and 1903, for twenty-five counties there were 636 applications

and 556 decrees granted; i. e., 87.4 per cent. of all the actions were successful. It may not be that our courts are careless in this matter, but the figures show that 20 per cent. more actions have been granted during the last four years than the average quoted.

The facts being in, something must needs be said in conclusion. It will be remembered that the ratio now obtaining in this state is about 1 divorce to 20 marriages. This seems to be far ahead of most of the other states from which reports could be secured, but there is still a chance for improvement. All kinds of cures have been suggested; but it is not my purpose here to cite the views of all who have recommended some more or less desirable change. Suffice it to say that I believe the change must come about gradually, not suddenly—evolution, not revolution. The movement to stop divorce can best be made successful by a movement to make marriage more difficult and more impressive. And, as someone has said: "Let there be unity before union." Hasty and careless marriages are the ones most apt to turn out unhappily and to seek relief in divorce courts. Indeed, considering the qualifications and intemperate zeal and suddenness with which many people enter the state of matrimony, the wonder is not that there are so many dissatisfied, positively wretched wives and husbands, but that there are not many more. If young people knew that there was little or no chance for ever becoming legally separated, there would be more careful consideration. A little more foresight accompanying a look into the past, and actually getting acquainted, would almost insure against later grief.

To restrict marriage too much, or to forbid remarriage, would be against public policy without a doubt; for the proper policy for man to pursue is to marry, lest the family be annihilated and the human race commit suicide. There is, however, one step which could, and I believe should, be taken at once to protect the home, and which would decrease the divorce movement. First of all, make it necessary that the defendant have actual notice of the proceedings and put in a defense, having the right to call upon the state's attorney to make the plaintiff show good and sufficient cause why the divorce should be granted. And if there is good ground for separation, there is also a good ground for criminal

prosecution by the state. Thus, 20.59 per cent. of all divorces are for adultery. If these twenty out of every hundred were quickly made to suffer (besides being divorced—a thing for which they have probably been working), there would surely be an improvement and a decrease in crime as well. Another 15.7 per cent. are granted for cruelty. In Canada those convicted of cruelty are introduced to the whipping-post. Desertion adds 38.54 per cent.; drunkenness, 4.2 per cent.; and neglect to provide, 2.4 per cent. If the party who is guilty were punished instead of getting what he is often working for—a divorce—I believe this would be a movement in the right direction.

There are many other collateral questions involved which cannot be touched upon here, but as a general statement I believe that a movement which would at once punish the guilty party and make marriage more the result of careful consideration would result in more real benefit to all concerned, and have less objections than any other policy which could be pursued.